

REMARKS

Reconsideration of this application and entry of this Amendment is respectfully requested. Claims 1-30 are pending. Claims 1 and 21 have been amended for clarity. Support for the amendment to claim 1 can be found in paragraph 058 and 061 of the specification and in Figures 6 and 7. Support for the amendment to claim 21 can be found in the preamble to the claim, as well as paragraph 054. No new matter has been added.

Rejections under 35 U.S.C. §103(a)

Claims 1-6, 21-22, and 28 stand rejected as obvious over Gross et al (4,867,946) in view of Albarella (US Pub. App. 2002/0031840). Claims 7-8, 11-20, and 24-30 stand rejected as obvious Gross et al. in view of Albarella and further in view of Howard (EP Pub. 0837320). Claims 9, 10, and 23 stand rejected as obvious over Gross et al. in view of Albarella and Howard and further in view of Matzinger et al. (6,168,957). For at least the reasons set forth below, the rejections are respectfully traversed.

All the rejections above rely on Gross et al. as the primary reference and at least Albarella as a secondary reference to teach the basic claimed invention of an apparatus, system or method for verifying proper operation of an optical inspection machine. However, none of the references were concerned with the problem of verifying proper operation of a device. Consequently, as will be explained in greater

detail below, nearly all of the features of the claimed invention are absent from these references alone, or in combination.

Gross merely discloses a device for optically analyzing a urine strip. With respect to independent claim 1, Gross does not disclose a row of colored segments that *simulate color* of reagent pads on a liquid carrier. Also absent from Gross is the teaching that the row of colored segments are positioned on the apparatus to simulate placement of reagent pads on a liquid carrier such that the segments can be illuminated by the readhead of the optical inspection machine.

Similarly, with regard to the method claim 21, Gross fails to disclose nearly all of the steps. Gross does not disclose inserting an apparatus having a row of colored segments that *simulate* reagent pads containing known types of analytes at known concentrations into the optical inspection machine so that the row of colored segments can be illuminated by the readhead of the optical inspection machine. Nor does Gross disclose the step of comparing the results provided by the optical inspection machine to the known types and concentrations of analytes simulated by the row of colored segments *to verify proper operation of said optical inspection machine.*

In making the obviousness rejection, Examiner looks to Albarella to fill in the elements of the invention not disclosed by Gross. However, Albarella also fails to teach these elements. Albarella discloses providing a reference color on or alongside the reagent area. Nowhere in Albarella is it taught or suggested that the reference color *simulates a reagent pad* within the meaning of the claimed invention.

Specifically, with regard to claim 1, Albarella does not disclose a row of colored segments that simulate color of reagent pads on a liquid carrier. Also absent from Albarella is the teaching that the row of colored segments are positioned to simulate placement of reagent pads on a liquid carrier such that segments can be illuminated by the readhead of the optical inspection machine. In contrast, the reference areas of Albarella are positioned adjacent to the actual reagent pads and do not simulate their placement. Albarella also teaches using the reference areas with visual readings with the naked eye, rather than with an optical inspection machine. Certainly there is no teaching of positioning the segments to simulate placement of reagent pads on a liquid carrier such that segments can be illuminated by the readhead of the optical inspection machine. Accordingly, neither Gross nor Albarella, either alone or in combination, teach all the elements of claim 1. Therefore, it is respectfully requested that the rejection be withdrawn.

With regard to the method claim 21, Albarella also fails to disclose nearly all of the claimed steps. Albarella teaches using the reference colors as a convenient means of interpreting the color of the reagent pads. There is no teaching or suggestion to use the reference color to verify proper operation of said optical inspection machine, as claimed. Albarella does not disclose inserting an apparatus having a row of colored segments that simulate reagent pads containing known types of analytes at known concentrations into the optical inspection machine so that the row of colored segments can be illuminated by the readhead of the optical inspection machine. In fact, Albarella only teaches using the reference areas with visual readings with the naked eye, rather

than with an optical inspection machine. Nor does Albarella disclose the step of comparing the results provided by the optical inspection machine to the known types and concentrations of analytes simulated by the row of colored segments to verify proper operation of said optical inspection machine. Accordingly, neither Gross nor Albarella, either alone or in combination, teach all the elements of claim 21. Therefore, it is respectfully requested that the rejection be withdrawn.

Claims 2-20 and 22-30 depend from independent claims 1 or 21. For at least the reasons discussed above with regard to the independent claims, claims 2-20 and 22-30 are patentable. As secondary references, certainly the Matzinger and Howard references do not teach or suggest the missing elements of the claimed invention either.

With regard to claims 2-6 and 22, Applicants would like to further point out that none of the references teach *offset* parallel rows of black indicators. Examiner has not shown where in Gross the rows are offset. Furthermore, the position marks of Gross relied upon by the Examiner as teaching the indicators are not part of the apparatus (urine strip 12 in Gross terminology) as claimed, but rather they are on the work platform which is separate from the strip that has the reagent pads. In other words, they are not part of the apparatus as claimed. There is no teaching or suggestion in Gross to make them part of the apparatus as they would lose their functionality. For these further reasons, claims 2-6 and 22 are allowable.

CONCLUSION

In view of the above arguments and amendments to the claims it is respectfully submitted that this application is now in condition for allowance and such favorable action is respectfully requested. A petition for a one month extension of time is submitted herewith.

Dated: September 9, 2008

Siemens Healthcare Diagnostics Inc.
Law and Patents
511 Benedict Avenue
Tarrytown, New York 10591
Telephone: (914) 524-2722
Facsimile: (914) 524-3694
e-mail noam.pollack@siemens.com

Respectfully submitted,



Noam R. Pollack
Reg. No. 56,829
Attorney for Applicants